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CURRENT ACTIVITIES OF INTERNATIONAL ORGANIZATIONS RELATED TO THE HARMONIZATION AND UNIFICATION OF INTERNATIONAL TRADE LAW

Report of the Secretary-General

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INTRODUCTION

1. The General Assembly, in resolution 34/142 of 17 December 1979, requested the Secretary-General to place before the United Nations Commission on International Trade Law, at each of its sessions, a report on the legal activities of international organizations in the field of international trade law, together with recommendations as to the steps to be taken by the Commission to fulfill its mandate of coordinating the activities of other organizations in the field.

2. In response to that resolution, detailed reports on the current activities of other organizations related to the harmonization and unification of international trade law have been issued at regular intervals, the last one having been submitted at the twenty-third session in 1990 (A/CN.9/336). At the twenty-fourth session of the Commission, the Secretariat, due to the disappointing response of development agencies and other organizations to its request for information related to the harmonization and unification of international law, proposed to continue its investigation and to report its findings to the Commission at its twenty-fifth session (A/CN.9/352). At its twenty- fifth session, the Commission considered a special report prepared by the Secretariat on assistance by multilateral organizations and bilateral aid agencies in the modernization of commercial laws in developing countries (A/CN.9/364).

3. This report is another in the series mentioned and has been prepared in order to update and supplement the report submitted at the twenty-third session of the Commission. It is based on information available to the Secretariat about the activities of international organizations from 15 February 1990 generally up to March 1993. Documents referred to in this report and further information may be sought directly from the organizations concerned. The Secretariat appreciates the assistance given to it by all those international organizations and others that sent information on their current activities related to the harmonization and unification of international trade law.

4. The activities of UNCITRAL related to the harmonization and unification of international trade law are referred to briefly in this report for the sake of completeness. The current work of UNCITRAL is summarized each year in the reports of the Commission's annual sessions. The reports and the background documents are subsequently reprinted in the Yearbook of the United Nations Commission on International Trade Law.

5. The work of the following organizations is described in the present report:

(a) United Nations bodies and specialized agencies

CTC: Centre for Transnational Corporations
paragraph 111

ECE: Economic Commission for Europe
paragraphs 10, 37, 110

GATT: General Agreement on Tariffs and Trade
paragraphs 7, 56, 105

IBRD: International Bank for Reconstruction and Development (World Bank)
paragraphs 118, 119

ICAO: International Civil Aviation Organization
paragraph 85

IMO: International Maritime Organization
paragraphs 67, 72, 73, 74, 75

UNCITRAL: United Nations Commission on International Trade Law
paragraphs 6, 9, 57, 59, 63, 107, 129, 130, 131

UNCTAD: United Nations Conference on Trade and Development
paragraphs 20, 21, 22, 23, 24, 25, 26, 28, 39, 40, 61, 63, 65, 67, 68, 69, 70, 71, 106, 112, 132, 133

UNDP: United Nations Development Programme
paragraph 38

UNESCO: United Nations Educational, Scientific and Cultural Organization
paragraphs 41, 52, 54, 134, 135

UNIDO: United Nations Industrial Development Organization
paragraphs 27, 29. 30, 31, 32, 136

WIPO: World Intellectual Property Organization
paragraphs 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 139, 140

b) Other intergovernmental organizations

AALCC: Asian-African Legal Consultative Committee
paragraphs 33, 36, 92, 114, 120

Cartagena Agreement
paragraph 115

CCC: Customs Co-operation Council
paragraphs 109,121

EBRD: European Bank for Reconstruction and Development
paragraph 18

HAGUE CONFERENCE: Hague Conference on Private International Law
paragraphs 97, 98, 99, 100, 101, 102, 103, 104

OECD: Organization of Economic Cooperation and Development
paragraph 8

OTIF: Office des Transports Internationaux Ferroviaires
paragraphs 86, 87

SIECA: Secretaría Permanente del Tratado General de Integración Económica Centroamericana
paragraph 128

UNIDROIT: International Institute for the Unification of Private Law
paragraphs 14, 16, 17, 53, 91, 113, 117, 137, 138

(c) International non-governmental organizations

CIT: Comité international des transports ferroviaires
paragraph 88

CMI: Comité Maritime International
paragraphs 67, 76, 77, 78, 79, 80, 81, 82, 83, 84

Common Fund for Commodities
paragraphs 19

FIATA: International Federation of Freight Forwarders
paragraphs 64, 66

ICC: International Chamber of Commerce
paragraphs 12, 13, 15, 34, 55, 58, 65, 93, 108, 125

ICCA: International Council for Commercial Arbitration
paragraphs 95, 126

ILA: International Law Association
paragraphs 96, 116

IRU: International Road Transport Union
paragraphs 89, 90

I. INTERNATIONAL COMMERCIAL CONTRACTS IN GENERAL

A. Procurement

1. UNCITRAL

6. At its twelfth session (8 to 19 October 1990), the Working Group on the New International Economic Order considered the second draft of the Model Law on Procurement (draft articles 1 to 27, A/CN.9/WG.V/WP.28) At its thirteenth session (15 to 26 July 1991), the Working Group considered the second draft of articles 27 to 35 (A/CN.9/WG.V/WP.30) and the first draft of articles 36 to 42 (A/CN.9/WG.V/WP.27) on the review of acts and decisions of the procuring entity. At its fourteenth session (2 to 13 December 1991), the Working Group considered draft articles 1 to 27 of the Model Law as revised following the twelfth session (A/CN.9/WG.V/WP.30), as well as articles 28 to 41 (A/CN.9/WG.V/WP.33 and 34; article 42 had been deleted at the thirteenth session). At its fifteenth session (22 June to 2 July 1992), the Working Group reviewed and adopted draft articles 1 to 41 of the Model Law. It also affirmed its earlier decision that a commentary giving guidance to legislatures enacting the Model Law should be prepared by the Secretariat. In October 1992, an informal ad hoc working party of the Working Group was convened to review the commentary. The Working Group also noted that a note on the desirability and feasibility of preparing uniform law provisions on the procurement of services would be prepared by the Secretariat and submitted to the Commission at its twenty-sixth session (5 to 24 July 1993). The Model Law will be considered for adoption by the Commission at its twenty-sixth session. At that session, the Commission will also have before it the Draft Guide to Enactment of the UNCITRAL Model Law on Procurement (A/CN.9/375) and a note by the Secreteriat on possible future work in the procurement of services (A/CN.9/375/Add.1).

2. GATT

7. At GATT negotiations are under way, in pursuance of Article IX:6(b) of the GATT Agreement on Government Procurement, aiming at broadening the Agreement to include, in addition to central Government entities, those at a lower level, such as regional and local authorities, as well as other entities whose procurement policies are substantially influenced by government, such as telecommunications, energy, water management and transport utilities. The negotiations also aim at expanding the Agreement's coverage to include services contracts, including construction services contracts. Finally, the negotiations aim at improving the existing text of the Agreement, for example by the inclusion of a challenge system, which would allow interested suppliers to challenge alleged breaches of the Code under the national legislation of the country of the procuring entity. The draft Final Act of the Uruguay Round of Multilateral Trade Negotiations includes an agreement on procedures designed to facilitate accession to the Agreement on Government Procurement.

3. OECD

8. Within the framework of the joint OECD/CCEET (Center for Cooperation with European Economies in Transition) and EEC/PHARE programme of Support for Improvement in Governance and Management (SIGMA) in Central and Eastern European Countries, technical assistance is being provided for the reform of public procurement systems. The assistance helps States whose economies are in transition to incorporate key features of market-economy procurement systems, including the administrative and management apparatus as well as the legal infrastructure. Seminars and technical consultations are held,

including with the participation of the UNCITRAL Secretariat, and in which use is made of the UNCITRAL Model Law on Procurement being prepared by the Commission.

B. International countertrade practices

1. UNCITRAL

9. At its twenty-third session in 1990, the Commission considered several draft chapters of the legal guide on drawing up international countertrade contracts (A/CN.9/332 and Add. 1-7) and decided that the Secretariat should complete the preparation of the remaining draft chapters and submit them to the Working Group on International Payments. The Working Group on International Payments, at its twenty-third session in September 1991, considered the remaining draft chapters of the legal guide and draft illustrative provisions (A/CN.9/WG.IV/WP.51 and Add. 1-7). The Working Group requested the Secretariat to revise the draft chapters of the legal guide and present them to the Commission at its twenty-fifth session. At its twenty-fifth session, the Commission considered the draft materials for the legal guide (A/CN.9/362 and Add.1-17) and adopted the legal guide.

2. ECE

10. The Working Party on International Contract Practices in Industry of the ECE Committee on the Development of Trade completed and adopted at its thirty-fifth session (November 1989) a Guide on International Counterpurchase Contracts (ECE/TRADE/169) and at its thirty-sixth session (June 1990) a Guide on International Buy-back Contracts (ECE/TRADE/176).

C. UNIDROIT: principles for international commercial contracts

11. The UNIDROIT Study Group on progressive codification of international trade law continued its work on general principles applicable to international commercial contracts. The Group met twice in 1990 to examine the revised drafts of, and explanatory reports on, Chapter 4, Interpretation, Chapter 5, Performance, Section 2: Hardship and Chapter 6, Non-performance, Section 1: General Provisions, Section 2: Specific Performance and Section 3: Termination. The Group met once in 1991 to review a revised draft of, and explanatory report on, Chapter 6, Non-Performance, Section 4: Damages and Exemption Clauses. It also met twice in 1992 to examine draft provisions and comments on Chapter 1: General Provisions and comments made by the Governing Council at its 70th and 71st sessions on Chapter 5, Performance, Section 1: Performance in General.

D. ICC: Incoterms 1990

12. The Incoterms 1990 is the new edition of the ICC definitions of trade terms such as FOB, CIF and C & F, which came into force on 1 July 1990 (ICC publication No. 460). This new edition of Incoterms, the first in ten years, clarifies existing terms and adjusts the Incoterms in order to meet the modern needs. A guide to Incoterms 1990 was also published (ICC Publication No. 461). The Guide includes comments on the changes to the 1980 edition and explains the Incoterms in detail.

E. ICC: retention of title

13. An updated and completed edition of the Guide on Retention of Title is

scheduled to be published soon. The Guide explains different national practices, laws and regulations on retention of title. It also provides sample clauses, specifically on export sales, to serve as a practical tool for exporters, buyers, bankers, lawyers and other parties involved in drafting and interpreting international sales contracts.

F. Commercial agents and distributors

1. UNIDROIT: agency in the international sale of goods

14. The UNIDROIT Secretariat prepared and circulated to Governments and other interested organizations a study on the internal relations between principals and agents in the international sale of goods, as well as an annexed draft Convention on Contracts of Commercial Agency in the International Sale of Goods. It also prepared a document analyzing the relations between principals and agents, so as to allow the Governing Council to decide whether work should be continued on the subject. At its 70th session in 1991, the Governing Council determined that no further work on this subject was justified, as it had emerged that EEC and EFTA countries were unlikely to be interested in participating in further work until the EEC Directive on the Coordination of the Laws of the Member States Relating to Self-Employed Commercial Agents had been fully implemented. In addition, it was decided that any work should be postponed to await the implementation of the 1983 Geneva Convention on Agency in the International Sale of Goods.

2. ICC: commercial agency; distributorship

15. ICC published in 1991 a Model Commercial Agency Contract, which incorporates prevailing practices in international trade as well as principles generally recognized by the domestic laws on agency agreements (ICC Publication No. 496). The Working Party on Commercial Agency Agreements is progressing on a draft of a Model Distribution Agreement which is expected to be published soon.

G. UNIDROIT: franchising contracts

16. At its 69th session in 1990, the Governing Council decided that the Secretariat should continue following new developments and authorized it to cooperate with the International Bar Association (IBA) and other interested organizations and to prepare a list of subjects for study. At its 70th session in 1991, the Governing Council expressed its support for a questionnaire prepared by Committee X of the IBA for circulation in an effort to elicit information regarding the law and practice of franchising in various countries and instructed the Secretariat to submit the comments of the Governing Council to the IBA and to prepare for the 71st session in 1992 a paper identifying issues related to franchising that could be considered in the preparation of uniform rules. At its 71st session, the Governing Council considered that paper and postponed taking a final decision on the future work until its 72nd session in 1993, by which time the answers to the IBA questionnaire would have been received and analyzed by the Secretariat in a new paper, that would be considered by a restricted sub-committee of the Governing Council, to be held before the 72nd session.

H. Security interests

1. UNIDROIT: international aspects of security interests in mobile equipment

17. At its 70th session in 1991, the Governing Council considered a preliminary paper analyzing replies to a questionnaire circulated among

Governments and interested organizations related to the subject of security interests in mobile equipment and authorized the Secretariat to convene a restricted exploratory working group for the purpose of ascertaining the need for, and feasibility of, drawing up international rules governing certain aspects of security interests in mobile equipment. The working group met in March 1992 and came to the conclusion that such a project was not only useful but also feasible on condition that it would be restricted in scope. At its 71st session, the Governing Council considered the report of the working group and decided to set up a study group on international aspects of security interests in mobile equipment. The first meeting of the study group is scheduled to be held in April 1993. The second meeting will take place in 1994.

2. EBRD: model law on secured transactions

18. The EBRD is drafting a model law on secured transactions which may be used for adoption, as is or modified, in Central and Eastern European countries. The draft is expected to be available by autumn 1993. The drafting team of the EBRD is supported by an international advisory board comprising twenty experts in the field of secured transactions (for more details on the activities of UNIDROIT and EBRD on this topic see A/CN.9/378/Add.3, paras. 15, 16 and 19).

II. COMMODITIES

A. Common Fund for Commodities

19. The Common Fund for Commodities, formerly an UNCTAD project, is now directly administered by the Headquarters of the Common Fund in Amsterdam. The International Lead and Zinc Study Group submitted project proposals to the Common Fund on transfer of technology and promotion of demand: hot dip galvanizing of zinc and zinc die casting.

B. UNCTAD: commodity agreements

20. The aims of international commodity agreements and arrangements vary from one agreement/arrangement to another. The principal objectives of agreements with economic provisions are price and export earnings stabilization, although they often also aim at long-term development. Agreements whose main functions are developmental comprise activities related to improved market access and supply reliability, increased diversification and industrialization, augmented competitiveness of national products vis-à-vis synthetics and substitutes, improved marketing and distribution and transport systems. International commodity agreements may have additional objectives, e.g., the promotion of consumption, the prevention of unemployment or underemployment, and the alleviation of serious economic difficulties. All of them give priority importance to transparency and statistical functions. Since the last report, several commodity agreements or arrangements have been adopted pursuant to the objectives adopted by UNCTAD in resolutions 93(IV) and 124(V) on the Integrated Programme for Commodities as well as the Final Act of UNCTAD VII and the Cartagena Commitment of UNCTAD VIII.

C. UNCTAD: Terms of Reference of the Standing Committee on Commodities

21. Consensus was reached at the eighth session of the Conference, held in Cartagena de Indias, Colombia, in February 1992, on the role UNCTAD should

play in the commodities field. The terms of reference of the Standing Committee on Commodities, established at the second part of the thirty-eighth session of the Trade and Development Board, specify this role in detail.

D. UNCTAD: complementary facility for commodity-related shortfalls in export earnings

22. The Intergovernmental Group of Experts on the Compensatory Financing of Export Earnings Shortfalls, which concluded its work at its resumed second session (10 to 18 April 1989), submitted its report for consideration by the UNCTAD Trade and Development Board at its sixteenth special session (8 to 9 and 16 March 1990). A decision was adopted at that session (379 (S-XVI)) in which the Trade and Development Board invited countries other than the EEC and Switzerland to consider, if deemed appropriate, the possibility of introducing commodity-related schemes and encouraged further cooperation among such schemes. It also decided that the problem of shortfalls in commodity export earnings of developing countries arising from market instability, as well as the question of compensatory financing of export earnings shortfalls, should be kept under review in UNCTAD as part of the ongoing work of the Committee on Commodities, taking into account the various views expressed at the Board's sixteenth special session and in the conclusions and recommendations of the Intergovernmental Group of Experts. It further requested the Secretary-General of UNCTAD to follow developments in various compensatory financing schemes and their implications for the development of developing countries. This mandate is now reflected in "A New Partnership for Development: the Cartagena Commitment", adopted at the eighth session of the United Nations Conference on Trade and Development (Report of UNCTAD VIII, TD/364, Part I, Section A, para. 212), as well as in both the terms of reference adopted at the thirty-eighth session of the Trade and Development Board and the work programme of the Standing Committee on Committees adopted at its first session (19 to 23 October 1992). This mandate concentrates on the analysis and review of problems stemming from export earnings shortfalls of developing countries including commodity-related shortfalls.

E. UNCTAD: Global System of Trade Preferences (GSTP)

23. The Global System of Trade Preferences among developing countries (GSTP) is established as a framework for the exchange of trade concessions among countries members of the Group of 77. It constitutes an instrument for the promotion of trade among these countries. The Agreement entered into force on 19 April 1989 among the 40 countries which ratified it and have become participants. The exchange of tariff concessions covered about 1700 tariff lines, and participants agreed to multilateralize these concessions among themselves. Exclusive tariff preferences in favour of the least developed participants were provided pursuant to the provisions of the GSTP Agreement regarding special and differential treatment for the least developed countries. Since the entry into force of the Agreement, the GSTP Committee of Participants has been performing its functions as the governing body of the Agreement. Significant trade transactions have taken place under the Agreement, but the GSTP partners felt that further efforts were still needed to expand their GSTP preferential trade, and they thus agreed to the launching of the Second Round of GSTP Negotiations.

24. During the GSTP Ministerial Meeting, held in Tehran on 21 November 1991, the Tehran Declaration on Launching the Second Round of GSTP Negotiations was adopted with the aim of facilitating the process of accession to the Agreement and carrying forward the exchange of trade concessions. The Tehran Declaration provided for the establishment of the GSTP Negotiating

Committee for the Second Round. The Negotiating Committee held its first session on 22 July 1992 and adopted its Plan for the Second Round of GSTP Negotiations.

F. UNCTAD: Generalized System of Preferences (GSP)

25. At its nineteenth session, held from 18 to 22 May 1992, the UNCTAD Special Committee on Preferences addressed openly, for the first time in twenty years of application of the GSP, the question of graduation or differentiation. It was concluded that the application of the GSP in the treatment of beneficiary countries could lead to arbitrary and restrictive results; objective and rational criteria for their treatment would be the best way to avoid such unwanted and often discriminatory results; one of its positive effects could and should be a better spread of benefits among developing countries. It should also open the way for increased product coverage in areas of export interest to developing countries. Moreover, domestic credibility of the GSP in the preference-giving countries would be enhanced; country and product differentiation was preferable to complete country exclusion because such a macroeconomic policy decision could create problems at the microeconomic level for the graduated country.

III. INDUSTRIALIZATION

A. UNCTAD: economic cooperation and integration among developing countries

26. The UNCTAD Secretariat has prepared a publication entitled "Bilateral Agreements on Trade and Economic Cooperation concluded by Developing Countries" which reproduces the texts of the agreements arranged by subject matter (UNCTAD/ST/ECDC/36/ Vols. I and II). The UNCTAD Secretariat has also prepared a document entitled "Export Processing Free Zones of sub-Saharan Africa" (UNCTAD/ECDC/220) which provides a systematic presentation of export processing free zones in nine countries in sub-Saharan Africa in terms of their legal status, organization, functioning and objectives.

B. UNIDO: international product standards

27. UNIDO has completed a study on the trends in international product standards and the implications for developing countries ("International Product Standards: Trends and Issues" UNIDO/PPD.182, 7 January 1991).

C. UNCTAD: trade in services

28. As part of the organizational reforms decided at UNCTAD's eighth Conference, a Standing Committee is to focus on examining difficulties particularly faced by developing countries in enhancing exports of services. The overall objective of the Committee's work on national policies is to analyze and assist, as appropriate, in the formulation of national policies aimed at strengthening the production, export and technological capacity of services sectors, taking into account their level of development in different countries, with a view to contributing to development and, thus, increasing the participation of developing countries in world trade in services. UNCTAD's mandate to provide technical assistance was considerably strengthened at its eighth Conference. The thrust of the new mandate is that the Secretariat should concentrate on assisting countries to identify the best ways to utilize opportunities provided by the liberalization of trade in services to increase the competitiveness of their domestic service sector and to enhance their participation in international trade in services.

D. Guides and guidelines

1. UNIDO: guide to investors

29. Since 1990 UNIDO has added to its publications in this field two investor's guides, one for Tanzania and another for Hungary.

2. UNIDO: guides on industrial subcontracting

30. In the framework of this programme legal, tax and custom aspects related to industrial subcontracting operations in the Arab region have been surveyed. A Guide is presently being prepared. A similar survey is being prepared for the Latin American region. UNIDO has also surveyed the existing nomenclatures and terminologies and recommended the use of several of them which have been either designed or applied by the EC. Among these is the Combined Nomenclature on the Tariff and Statistical Nomenclature and on the Common Customs Tariff (Commission - EC Regulation no. 2472/90 of 31 July 1990).

3. UNIDO: Manual on Technology Transfer Negotiations

31. The Manual on Technology Transfer Negotiations under preparation by UNIDO is intended to serve the purpose as a teaching tool for technology transfer negotiation courses, for developing the skills of trainers of negotiators and as a working tool for negotiators. It covers, in a comprehensive manner, the range of subjects that entrepreneurs, decision-makers and government officials dealing with technology acquisition are likely to be confronted with in the various phases of the technology transfer process. These subjects include not only those directly related to the evaluation and negotiation of contracts but also the aspects that influence technology options, the behaviour of parties and the results of negotiations.

4. UNIDO: guidelines on the development, negotiation and contracting of BOT contractual arrangements

32. The Guidelines, currently under preparation, are intended to impart to users or potential users of the BOT (build-operate-transfer) scheme for project implementation with guiding principles on issues such as the legislative framework, tendering, basic and essential contractual features, the risk structure of parties involved, financing, insurance, period of operation and transfer of ownership. In addition, the Guidelines will aim to make all parties aware of the changing character of risks in a BOT scheme as compared to the standard traditional contractual structure used in the construction of large plants. Consequently, the Guidelines will point out the methods of meeting the new risks and differentiating between the risks which should be decreased or minimized and the risks which are unavoidable. The Guidelines will contain analyses of the BOT contractual structure from the point of view of all parties concerned (for more details see A/CN.9/378, paras. 2 to 5).

E. Joint ventures

1. AALCC: industrial joint ventures

33. The Secretariat of AALCC prepared a preliminary version of the Guide on Legal Aspects of Industrial Joint Ventures in Asia and Africa and submitted it to the AALCC's Nairobi session held in February 1989. Subsequently, the Secretariat revised and updated the preliminary version of the Legal Guide and

presented it to the Cairo session held in April 1991. At that session, the AALCC decided to adopt the revised version of the Guide. However, following the establishment of a computerized Data Collection Unit, further information on national laws on joint ventures was collected that made the further revision of the Guide necessary. The Secretariat is, therefore, currently engaged in updating the Guide.

2. ICC: joint ventures

34. The current priority of the Working Party on Joint Ventures of the ICC Commission on Law and Practice relating to Competition is the evaluation of industry experience with block exemptions and formulation of recommendations for improvement of the competition rules.

3. UNCTAD: joint ventures

35. The UNCTAD Secretariat continued to prepare a series of publications whose purpose has been to describe and compile the regulations concerning foreign investments in developing countries. A new volume has been published relating to the regulations of Latin America and Caribbean countries (UNCTAD/ECDC/220). The UNCTAD Secretariat has also continued to undertake studies on institutional and legal aspects relating to the promotion of multilateral and joint ventures among developing countries, such as "Andean Joint Enterprises: Analytical Compendium" (UNCTAD/ECDC/228) and "Arab Multilateral Enterprises" (UNCTAD/ECDC/223).

IV. PRIVATIZATION

A. AALCC

36. This topic was included in the work programme of the AALCC further to a recommendation made by the Trade Law Subcommittee at the Cairo session in April 1991. The Secretariat is currently studying the legal issues involved in privatization with a view to preparing a guide on legal aspects of privatization in Asia and Africa. A questionnaire prepared by the Secretariat was circulated to Member States. A preliminary study was submitted to the Kampala session in February 1993.

B. ECE

37. The Working Party on International Contract Practices in Industry of the ECE Committee on the Development of Trade, prepared a guide on legal aspects of privatization in industry. The guide was published in 1992 (ECE/TRADE/180). A new guide entitled "Privatization and Foreign Investment in the countries of Central and Eastern Europe: a Comparative Analysis" has been prepared (TRADE/W.5/R.9) and is expected to be published in the spring of 1993. The Working Party is expected to complete drafting of a another guide entitled "Guide on the Financing of East-West Trade/Privatization in Central and Eastern Europe" by the forty-second session of the Committee to be held in December 1993.

C. UNDP

38. In 1991, a group of experts from developing countries working under the auspices of UNDP prepared the "Guidelines on Privatisation". The Guidelines deal with various issues arising during the process of privatization. It also contains a chapter on tecnical assistance describing various possibilities for Governments to obtain technical assistance with

regard to their privatization programmes (for more details on the work of AALCC, ECE and UNDP on this topic see A/CN.9/378/Add.5, paras. 36 to 48).

V. TRANSFER OF TECHNOLOGY

A. UNCTAD: draft international code of conduct on the transfer of technology

39. In 1990, the UNCTAD Secretariat prepared a study entitled "The relevance of recent developments in the area of technology to the negotiations on the draft international code of conduct on the transfer of technology" (TD/CODE TOT/55). In 1990, 1991 and 1992, consultations were held by the Secretary-General of UNCTAD and interested Governments aimed at facilitating agreement on the Code. The General Assembly, in its resolution 47/182, invited the Secretary-General of UNCTAD to continue his consultations with Governments on the future course of action on the Code and to report to the General Assembly at its forty-eighth session on the outcome of those consultations.

B. UNCTAD: policies and instruments related to transfer and development of technology

40. Policies and instruments conducive to the transfer and development of technology continued to be an area of focus of UNCTAD's comparative analysis of the role of the national policies, laws and regulations in promoting investment, technological innovation and transfer of technology. In this respect, reference should be made of two studies concerning Brazil (UNCTAD/ITP/TEC/15) and the Republic of Korea (UNCTAD/ITP/TEC/16). Regarding the role of intellectual property systems in promoting technological innovation three studies have been prepared: i) Historical trends in protection of technology in developed countries and their relevance for developing countries (UNCTAD/ITP/TEC/18); ii) a case study of selected Swedish firms (UNCTAD/ITP/TEC/13); iii) a case study of the United Republic of Tanzania (UNCTAD/ITP/TEC/17). As part of its work on the trade-related aspects of intellectual property rights (TRIPS), the UNCTAD Secretariat reviewed the current international initiatives aimed at establishing higher standards of intellectual property protection and securing their effective improvement worldwide within the framework of the TRIPS negotiations in the Uruguay Round of Multilateral Trade Negotiations (see para. 56 below). Issues raised during these negotiations which are of concern to developing countries and possible implications of a TRIPS agreement for the economic and technological development of those countries were part of the Trade and Development Report of 1991 (UNCTAD/TDR/11).

VI. INDUSTRIAL AND INTELLECTUAL PROPERTY LAW

A. UNESCO: copyright and neighbouring rights

41. During the period 1990-1992, UNESCO's activities in the field of copyright and the so-called "neighbouring rights" were aimed at promoting the adherence of its member States to the international conventions in the field; encouraging its Member States to adopt legal measures in conformity with certain International Recommendations adopted by UNESCO's General Conference, in particular with regard to the protection of translators and translations, the Statutes of the Artist and the Safeguarding of Folklore; introducing the teaching of copyright and neighbouring rights (on the basis of the Programme elaborated by UNESCO) at least at the main universities of all UNESCO Member States; training of personnel, judges and magistrates playing a key role in

law enforcement; and creating a data base on international instruments, national legislation and case law (jurisprudence) and a bibliography in this field which is to be published in 1994-1995 in CD-ROM. The Secretariat of UNESCO organized a number of seminars (see paras. 135-136 below). At present, the Secretariat has prepared a study on the ways and means to combat piracy which will be submitted for discussion by the Intergovernmental Copyright Committee in June 1993. Certain articles on this subject were published in the UNESCO Copyright Bulletin in 1992.

B. WIPO: intellectual property, counterfeiting and patent classification

1. WIPO: the Patent Law Treaty

42. This is the tentative name, used since 1989, of this possible new treaty which earlier was called "Treaty on the Harmonization of Patent Law". Preparatory work started in 1983. The successive drafts, prepared by the International Bureau, were considered in eleven meetings of Committees of Experts. They dealt with a variety of subjects, including the determination of the filing date of patent application, the grace period (for the public disclosure of the invention without destroying the novelty otherwise required for the purposes of patenting it), the manner of describing and claiming an invention, the exclusive rights of a patent owner, the non-exclusion of certain kinds of inventions from the possibility of patenting, the duration of a patent, the prohibition of pre-grant opposition and giving the right to a patent, between two inventors having made the same invention, to the one who was the first to apply for a patent ("first to file") rather than the one who was the first to make the invention ("first to invent").

43. The Diplomatic Conference that, eventually, should adopt the Treaty met (in what was termed the first part of a two-part Conference) in The Hague in June 1991. Not concluding the task in The Hague was decided for two reasons: one was that the negotiations of the Uruguay Round of GATT, also dealing with many of the questions on the agenda of the Diplomatic Conference, were not yet completed; the other was that the Delegation of the United States of America had not yet concluded its consultations with the interested circles in its country. The question of the date when the Diplomatic Conference should be resumed will be considered by the Governing Bodies of WIPO in September 1993.

2. WIPO: revision of The Hague Agreement

44. A Committee of Experts held its first session in April 1991 to recommend solutions, including the possible revision of the Hague Agreement (International Deposit of Industrial Designs) or the establishment of a new system, which should both increase the use of the Hague system of international deposit and permit more States to adhere to the Hague Agreement. At its second and third sessions, held in April 1992 and April 1993, the Committee of Experts considered a draft treaty on international deposit of industrial designs, prepared by the International Bureau, which is aimed at improving the Hague system and encouraging new States to accede to the Agreement.

3. WIPO: Madrid Agreement

45. As the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks, adopted in Madrid on 27 June 1989, has not yet entered into force, a Working Group has been set up by WIPO to revise

the regulations to implement the Protocol. The Working Group on the Application of the Madrid Protocol of 1989 held five sessions (in March and November 1990, May and November 1991 and October 1992), with the aim of preparing new Regulations which would apply both under the Madrid Agreement and the Madrid Protocol once the Madrid Protocol enters into force.

4. WIPO: Harmonization of Trade Marks Laws

46. The Committee of Experts on the Harmonization of Laws for the Protection of Marks held four sessions in 1991 and 1992 and its fifth session in June 1993. It examined a draft treaty on the simplification of administrative procedures concerning marks, prepared by the International Bureau.

5. WIPO: Possible Protocol to the Berne Convention and Possible Instrument on the Protection of Rights of Performers and Producers of Phonograms

47. Three sessions of the Committee of Experts on a Possible Protocol to the Berne Convention have been held (November 1991, February 1992 and June 1993). The said Committee is examining questions relating to copyright protection of computer programs and data bases, rental right, non-voluntary licenses for the sound recording of musical works and for primary broadcasting and satellite communication, distribution right, including importation right, duration of protection of photographic works, communication to the public by satellite broadcasting, enforcement of rights, and national treatment. A Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms met in June 1993 and examined questions relating to the effective international protection of the rights of performers and producers of phonograms.

6. WIPO: Model Law on the Protection of Producers of Sound Recordings

48. In June 1992, the first session of the Committee of Experts on a WIPO Model Law on the Protection of Producers of Sound Recordings considered a draft Model Law prepared by the International Bureau. The Committee recommended that the Model Law also cover the rights of performers. That recommendation was approved in September 1992 by the Assembly of the Berne Union. A second session of the Committee of Experts is scheduled for November 1993.

7. WIPO: International Registration of Audiovisual Works

49. The Film Register Treaty (Treaty on the International Registration of Audiovisual Works) adopted at Geneva on 18 April 1989, has entered into force on 27 February 1991. Eight States were parties to the Treaty as of 15 June 1993 (Argentina, Austria, Brazil, Burkina Faso, Czech Republic, France, Mexico, and Slovakia). The Treaty establishes, under the auspices of WIPO, an international register of audiovisual works. Nationals of a Contracting State, or one that has paid the prescribed fee, may apply to have statements concerning audiovisual works and rights thereon entered into the International Register. Any statement recorded must be considered true until proven otherwise. The Treaty thus creates a rebuttable presumption as to the veracity of the statements contained in the International Register. The Register is an administrative unit of the International Bureau of WIPO. It began receiving applications on 1 September 1991.

8. WIPO: Dispute Settlement

50. In 1990, a WIPO Committee of Experts started working on a draft treaty on the settlement of intellectual property disputes between States. It met five times in 1990, 1991, 1992 and 1993. The draft treaty provides for direct consultations between the parties to a dispute and submission of the dispute to a panel procedure. Optional submission of a dispute to good offices, conciliation and mediation or to arbitration is also provided for. A sixth session of the Committee of Experts is scheduled to take place in March 1994, together with a preparatory meeting for a diplomatic conference, the date of which has not yet been fixed. The preparatory meeting will decide on the States and organizations to be invited to the diplomatic conference, the provisional agenda and the provisional rules of procedures.

51. The International Bureau continued to study the possibility of providing services of arbitration and mediation for the settlement of intellectual property disputes between private parties. Three meetings of a Working Group of non-governmental organizations have been held (in May and November 1992 and in June 1993). The meetings considered the desirability of the provision of such services by WIPO, as well as the type of services that could be provided. Among the procedures that were discussed were arbitration, expedited arbitration and mediation. The International Bureau prepared a memorandum setting forth draft Rules concerning each of those procedures.

C. International protection of cultural property

1. UNESCO

52. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 provides for cooperation to hinder the trade in stolen and illegally exported cultural property. In implementation of this Convention UNESCO assisted States drafting legislation controlling the import and export of cultural property in conformity with the Convention, assisted in drafting a model bilateral treaty on the subject, took action to coordinate data bases on stolen cultural property and circulated notes of stolen cultural property. As a result of a report commissioned by UNESCO in 1983, UNESCO asked UNIDROIT to draft a text dealing with some of the issues of private law not resolved in the 1970 UNESCO Convention.

2. UNIDROIT

53. A study group of experts prepared a text of a preliminary draft Convention on Stolen or Illegally Exported Cultural Objects. The most important provisions of that text stipulate that any stolen property of artistic, historical, spiritual, ritual or other cultural significance, whether in private or public hands, whether taken from a collection or an individual item, whether inventoried or not, must be returned. The text was considered by the Governing Council of UNIDROIT at its 69th session in April 1990. The Governing Council endorsed the draft approved by the study group on the international protection of cultural property, as a basis for future work. It also decided that the Secretariat should communicate the draft Convention to Governments and other interested organizations and it authorized the Secretariat to convene a first session of a committee of governmental experts. The Committee held three sessions (May 1991, January 1992 and November 1992). During the first two sessions, the Committee proceeded to two readings of the text of the preliminary draft Convention. During the second session, the most recent proposal for an EC Council

Directive on the approximation of laws, regulations and administrative provisions of the Member States relating to the return of cultural objects unlawfully removed from the territory of a Member State was also made available. At the third session, the Committee reviewed a revised draft prepared by the Secretariat. The timing of a diplomatic Conference for the adoption of the future Convention, most likely in the latter half of the triennial period 1993-1995, will to a large extent depend on whether further sessions of the Committee will prove necessary.

D. International sales of work of art

1. UNESCO

54. At the request of a UNESCO Committee for promoting the return of cultural property to its countries of origin or its restitution in case of illicit appropriation, work is currently proceeding for a Code of Ethics for dealers in cultural property.

2. ICC

55. ICC published Volumes II and III of its International Sales of Works of Art publication. Volume II examines legal restrictions and provides legal advice to dealers on how to purchase or sell works of art abroad. Tax laws as well as export and import terms are also described in charts. Volume III describes the ways by which an art collection can be moved from one EC country to another. It also reviews the legal and commercial issues in the international art market, containing also a number of national reports describing the situation in several countries. Volume IV is scheduled to be published in 1993.

E. GATT: intellectual property

56. In the context of the Uruguay Round negotiations, a Draft Final Act was issued in December 1991. This document, which embodies 27 Agreements laying down the results of these multilateral trade negotiations, is still under consideration by governments. The Draft Final Act includes the establishment of a Multilateral Trade Organization (MTO) as the legal framework for all these Agreements and a unified system for the settlement of disputes between governments. One of the covered texts is the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS). The TRIPS Agreement has five main elements. First, it lays down certain general obligations, the most important of which is the obligation to give foreigners treatment no less favourable than one's own nationals (national treatment). Second, it establishes the minimum norms and standards countries must provide for in respect of a number of categories of intellectual property. Third, the Agreement obliges the countries to provide effective means by which right holders can enforce their rights and specifies in some detail the procedure and remedies that must be available to right holders. Fourth, in respect of disputes arising between member governments, the unified dispute settlement system which is being created within the framework of the MTO will be available. And fifth, the Agreement includes transitional arrangements which provide more time for developing than for developed countries to bring their domestic laws into conformity with the Agreement.

VII. INTERNATIONAL PAYMENTS

A. UNCITRAL: Model Law on International Credit Transfers

57. The UNCITRAL Model Law on International Credit Transfers was adopted on 15 May 1992. The Model Law is designed to assist legislators in preparing improved and internationally harmonized legislation on international credit transfers. It contains four chapters. Chapter I establishes the sphere of application and defines key terms. Chapter II deals with obligations of the sender of a payment order, the time when payment by the sender of a payment order to the receiving bank is deemed to occur, acceptance or rejection of a payment order, obligations of a receiving bank, obligations of the beneficiary's bank, time limit for the execution of a payment order and revocation of a payment order. Chapter III deals with consequences of failed, erroneous or delayed credit transfers, including the question of bank liability and limits on bank liability. Chapter IV deals with completion of the credit transfer.

B. Guarantees and letters of credit

1. ICC: guarantees and letters of credit

58. ICC published the Uniform Rules for Demand Guarantees (ICC Publication No. 458). The ICC Commission on Banking Technique and Practice set up a working group to consider revising the Uniform Customs and Practices for Documentary Credits (UCP 400). It distributed a draft UCP 500 (ICC Document No. 470- 37/104). The working group met on 9 August, and on 19 and 20 November 1992, and reviewed the comments of the various National Committees on the proposed UCP 500 articles. A formal edited final version will be submitted to the Banking Commission for approval at its meeting on 10 May 1993. It is expected that, if approved at that time by the Banking Commission, and by the ICC Executive Board, the UCP 500 will be implemented as of 1 January 1994. FIATA is also partly involved in the UCP 400 revision.

2. UNCITRAL: guarantees and stand-by letters of credit

59. At its fourteenth session held from 3 to 14 September 1990, the Working Group on International Contract Practices examined draft articles 1 to 7 of the uniform law prepared by the Secretariat (A/CN.9/WG.II/WP.67) and considered the issues discussed in the note by the Secretariat relating to amendment, transfer, expiry and obligations of guarantor (A/CN.9/WG.II/WP.68). At its fifteenth session from 13 to 24 May 1991, the Working Group considered some remaining issues relating to the obligations of the guarantor and, based on notes by the Secretariat (A/CN.9/WG.II/WP.70 and 71), fraud and other objections to payment, injunctions and other court measures, conflict of laws and jurisdiction. At its sixteenth session from 4 to 15 November 1991, the Working Group examined draft articles 14 to 27 of the uniform law (A/CN.9/WG.II/WP.73 and Add. 1) and requested the Secretariat to revise the draft articles of the uniform law taking into account the deliberations and decisions of the Working Group (A/CN.9/361). At its eighteenth session from 30 November to 11 December 1992, the Working Group reviewed draft articles 1 to 8 (A/CN.9/WG.II/WP.76 and Add.1) and requested the Secretariat to revise those articles for its consideration after the review of the remaining articles, which would resume at the nineteenth session (24 May to 4 June 1993), was complete.

VIII. INTERNATIONAL TRANSPORT

A. Transport by sea and related matters

1. UNCITRAL: Convention on Liability of Operators of Transport Terminals in International Trade

60. Following General Assembly Resolution A/44/33 of 4 December 1989, a Diplomatic Conference was held in Vienna from 2 to 19 April 1991 in order to consider the adoption of the draft Convention on Liability of Operators of Transport Terminals. The Convention was adopted on 17 April 1991, and two days later opened for signature. It remained open until 30 April 1992. By that date, five countries had signed on as Contracting States. In order to become effective, five states must ratify, accept or approve of the Convention. Any such instruments of ratification or accession must be deposited with the Secretary General at United Nations Headquarters in New York. The Convention establishes a uniform legal regime governing the liability of an operator of a transport terminal for loss of damage to goods and for delay in handing goods over. The applicability of the Convention is determined on the basis of the transport-related services enterprises such as stevedores, longshoremen or dockers perform irrespective of the name of the enterprise. The liability of the operator under the Convention is based on the principle of presumed fault or neglect (for the Official Records of the Conference see U.N. Publication, Sales No. E.93.X1.3).

2. UNCTAD: United Nations Convention on Conditions for Registration of Ships (1986)

61. The United Nations Convention on Conditions for Registration of Ships was signed by 16 countries. As of 31 December 1992, eight countries had become contracting parties to the Convention.

3. UNCTAD: Guidelines on the UN Convention on a Code of Conduct for Liner Conferences

62. The resumed session of the Review Conference on the United Nations Convention on a Code of Conduct for Liner Conferences was convened from 21 May to 7 June 1991 and adopted a resolution (TD Code:2/13 - Res.II) that sets forth a number of guidelines relating to the working and implementation of the Convention. The Guidelines deal with issues such as membership of container slot/space-charter operators in conferences, the application of the Convention to the international sea-leg of multimodal transport services, transshipment operations, participation of national shippers or shippers' organizations in the consultation machinery, and measures necessary to ensure implementation of the Convention. Resolution II calls upon all parties, including the governmental authorities at the two ends of the trade to which the Code applies, to hold consultations in order to find mutually acceptable solutions to problems relating to the working and implementation of the Convention.

4. UNCTAD/UNCITRAL: study on the economic and commercial implications of the entry into force of the Hamburg Rules and the Multimodal Transport Convention

63. A joint UNCITRAL/UNCTAD study, combining TD/B/C.4/315, Parts I and II, was published in 1991 (U.N. Publication, Sales No. E.91.II.D.8). Part I discusses the background of the Hamburg Rules, the economic and commercial implications of the entry into force of the Hamburg Rules (1 November 1992) and contains an article-by-article commentary on the Hamburg Rules. Part II presents information on the Multimodal Transport Convention.

5. FIATA: study on the impact of the Hamburg Rules on international freight forwarding

64. A special task group of FIATA conducted in February 1993 a study on the impact of the coming into force of the Hamburg Rules on the Convention on international freight forwarding. The results of that study are expected to be presented to the FIATA Headquarters Session in April 1993.

6. UNCTAD/ICC: Rules for Multimodal Transport Documents

65. Pending the entry into force of the 1980 United Nations Convention on International Multimodal Transport of Goods, and pursuant to resolution 60(XII) of the former UNCTAD Committee on Shipping, the UNCTAD Secretariat and ICC jointly prepared a set of Rules for Multimodal Transport Documents which came into effect on 1 January 1992. The Rules follow the network liability principle. The multimodal transport operator (MTO) and the consignor may invoke the mandatory liability rules of international Conventions and national law, which would have applied if a separate and direct contract had been made for the particular stage of the transport where the loss, damage or delay occurred. The general basis of liability is expressed in Rule 5.1 as a liability for "presumed fault or neglect". The MTO is also liable for acts or omissions on the part of his servants or agents or any other person whose services he makes use of for the performance of the contract (Rule 4.2).

7. FIATA: Combined Transport Bill of Lading (FBL)

66. After the UNCTAD/ICC Rules for Multimodal Transport Documents came into effect, FIATA started revising its FBL based on the ICC Uniform Rules for a Combined Transport Document (ICC Publication No. 298). The revision of the FIATA FBL according to the new UNCTAD/ICC Rules has practically been completed and, depending on approval by ICC, the new FIATA FBL, which will be named "FIATA Multimodal Transport Bill of Lading" is expected to be introduced in July 1993.

8. UNCTAD/IMO/CMI: maritime liens and mortgages

67. Following General Assembly resolution 46/213, a United Nations/International Maritime Organization Conference of Plenipotentiaries has been scheduled to be held in Geneva from 19 April to 7 May 1993 for the consideration and adoption of a Convention on Maritime Liens and Mortgages. The draft Convention on maritime liens and mortgages (LEG/MLM/27-JIGE(V1)8) was prepared by the Joint UNCTAD/IMO Intergovernmental Group of Experts during its six sessions held between 1986 and 1989. The Joint Working Group of Experts has used as basis of its work the Draft adopted by the CMI Conference in 1985 in Lisbon. CMI has given special assistance to the Joint Working Group in respect of the work on the Draft Convention. The objectives of the draft Convention are: (i) to provide a generally acceptable legal framework governing the recognition and enforcement of maritime liens and mortgages and thus to promote international uniformity, and (ii) to strengthen the international position of the mortgagees and financiers of shipbuilders and ship purchasers and thereby improve conditions for ship financing at the international level. The new Convention would replace the 1926 and 1967 Conventions for the unification of certain rules relating to maritime liens and mortgages.

9. UNCTAD: charter-parties

68. The twelfth session of the UNCTAD Working Group on International Shipping Legislation (WGISL) was held in October 1990 and considered the

subject of charter-parties. The WGISL had before it the report prepared by the Secretariat entitled "Charter Parties - A comparative analysis" (TD/B/C.4/ISL/55). The report highlighted some of the problems and disputes arising from: the use of out-dated charter-party forms; the interpretation of their wording; the application of different liability regimes to the charter-party and to bills of lading, as well as problems caused by contractual incorporation of the Hague-Visby Rules into the charter-party through a paramount clause.

10. UNCTAD: general average

69. The thirteenth session of the UNCTAD Working Group on International Shipping Legislation was held in November 1991 to examine the subject of general average. The report prepared by the UNCTAD Secretariat (General Average - A preliminary review (TD/B/C.4/ISL/58)) reviewed, inter alia, the arguments for and against the general average system. It concluded that in view of a long history of calls for abolition of the system going back to 1877, it would seem premature to consider questions of reform until the technical problems had been thoroughly discussed by the insurance interests concerned. The Working Group decided to request the Secretariat, in close collaboration with CMI, to approach the insurance industry and other interested organizations in order to study the extent to which insurance arrangements could simplify the operation of the general average system. Investigations are presently under way for the preparation of the requested report.

11. UNCTAD: marine insurance/minimum standards for shipping agents

70. The UNCTAD Model Clauses on Marine Hull and Cargo Insurance and the Minimum Standards for Shipping Agents are being promoted through seminars and technical assistance projects.

12. UNCTAD: harmonization and modernization of maritime legislation

71. The Secretariat is currently involved in updating and harmonizing the maritime legislation of various countries at the regional level (MINCONMAR member States - Western and Central African States - and Central American countries) and national level (Ethiopia), with the aim of providing a legal framework for more effective maritime transport. Training of nationals of these States forms an integral part of the projects.

13. IMO: Protocol of 1990 to Amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974

72. The Protocol of 1990 to Amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, was adopted at a diplomatic conference held in London from 26 to 30 March 1990 (LEG/CONF.8/10). As of 2 December 1992, one State had acceded to the Protocol.

14. IMO: International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990

73. The International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 was adopted at a diplomatic conference held in London from 19 to 30 November 1990 (OPPR/CONF/25). The Treaty is designed to improve the ability of nations to cope with a sudden pollution emergency. Even though the Convention is not in force, some provisions adopted by the diplomatic conference have been used as the basis for IMO's response to the massive oil

pollution in the Persian Gulf. As of 2 December 1992 the Convention had been ratified by six States.

15. IMO: consideration of a possible convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea

74. In 1990, the IMO Council and the Assembly assigned the highest priority to the consideration of a draft convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS). The purpose of this convention is to create an international liability regime based on the principle of strict liability which would provide for adequate compensation to the victims of damage caused in connection with the carriage of hazardous and noxious substances by sea. The damage to be covered by the convention would include loss of life and personal injury, loss or damage to property, as well as the loss or damage caused by contamination of the marine environment. The draft convention (LEG.67/3) regulates the main features of a first tier of compensation based upon the liability of the shipowner and a second tier which would regulate the establishment and operation of an international scheme to be contributed by HNS cargo interests. It is hoped that a final draft HNS convention will be submitted for the consideration of a diplomatic conference in the 1994- 1995 biennium.

16. IMO: Revision of the 1969 Civil Liability Convention and the 1971 Fund Convention

75. In 1984, two Protocols were adopted under the auspices of IMO to revise the 1969 Civil Liability Convention and the 1971 Fund Convention especially to increase the level of compensation provided for victims of pollution damage. The IMO Secretariat estimates that there are no prospects for the conditions for entry into force of these Protocols to be met. In view of the strong support expressed by governments for the compensation regime based upon the two treaties and in order to ensure its continued viability through the entering into force of the substantive provisions of the 1984 Protocols, a Diplomatic Conference on the revision of the 1969 Civil Liability Convention and the 1971 Fund Convention was held at IMO Headquarters from 23 to 27 November 1992. At the end of its deliberations the Conference adopted the 1992 Protocol to the Civil Liability Convention, 1969, and the 1992 Protocol to the Fund Convention 1971 (LEG/CONF.9/16 and LEG/CONF.9/17).

17. CMI: carriage of goods by sea

76. During the 34th International Conference of the CMI held in Paris from 24 to 28 June 1990, a draft study entitled "Uniformity of the Law of the Carriage of Goods by Sea in the 1990's" was discussed and approved, with some amendments, as a basis for future work. The topic was again on the agenda of the International Conference on Current Issues in Maritime Transportation, held in Genoa on 25 and 26 June 1992.

18. CMI: sea waybills

77. The 34th International Conference of the CMI adopted the CMI Uniform Rules for Sea Waybills. These rules apply to cases where they are adopted by a contract of carriage which is not covered by a bill of lading or a similar document of title.

19. CMI: electronic transfer of rights to goods in transit

78. The 34th International Conference of CMI considered and adopted the CMI Rules for Electronic Bills of Lading which had been drafted by an international subcommittee. The rules create a system of communicating transport data and legal functions without using traditional paper documents (for more details see A.CN.9/350, paras. 54, 69 and 104 to 108).

20. CMI: York Antwerp Rules 1974

79. Following the revision of Article VI of the York Antwerp Rules at the 34th International Conference of CMI, it was decided to review the York Antwerp Rules in general. CMI has entrusted an International Subcommittee with the task. On the basis of the first report it was decided to revise the York Antwerp Rules. The Subcommittee is preparing a Draft of revised Rules which will be submitted to the International Conference of CMI in Sydney in 1994.

21. CMI: assessment of damage to the marine environment

80. A Working Group and a Subcommittee of CMI is studying methods and procedures of assessment of damage to the marine environment in the context of civil liability for pollution damage. The studies are in particular based on the experiences gained in connection with oil pollution damage caused by the carriage of oil by sea. The first results of the studies were discussed at the Colloquium of CMI on Assessment of Damage to the Marine Environment held in Genoa on 18 and 19 September 1992. A draft of such guidelines will be submitted to the International Conference of the CMI in Sydney in 1994.

22. CMI: offshore mobile craft

81. The CMI Conference in Rio de Janeiro 1977 adopted a Draft Convention on Offshore Mobile Craft. The draft was submitted to IMO for consideration and put on the long term work programme of the Legal Committee of IMO. Due to the heavy work schedule of the Legal Committee of IMO the Draft has not yet been discussed. Since the Legal Committee of IMO is now considering to work on the subject, IMO has requested CMI to review the Draft in the light of developments since 1977. In response to the request CMI has set up a Subcommittee that is entrusted with the task to review the 1977 Rio Draft.

23. CMI: third party liability in maritime law

82. CMI has set up a Study Group for reviewing the Conventions concerning third party liability including limitation of liability in maritime law. The subject was included in the long-term work programme. It is expected that a first report will be presented to the International Conference of CMI in Sydney 1994.

24. CMI: maritime agents

83. CMI is studying the possibility of harmonization of the law governing the activities of maritime agents. Depending on the results of the study, the subject may be discussed at the International Conference of CMI in Sydney in 1994.

25. CMI: Voyage Charter-party Interpretation Rules (1992)

84. In a joint effort of CMI, BIMCO (Baltic International Maritime Council), FONASBA (International Federation of Shipbrokers and Agents),

International Chamber of Shipping and INTERCARGO (International Association of Dry Cargo Shipowners) a Draft of "Voyage Charter-party Interpretation Rules 1992" was prepared. The rules offer definitions and interpretations of terms frequently used in Charter-parties. CMI will continue the work on Charter-party Rules and discuss the subject at the International Conference of CMI in Sydney in 1994. An International Subcommittee of CMI will be set up for the preparation of further work on the item.

B. Transport by air

ICAO

85. The ICAO Secretariat prepared and sent in January to States a circular letter on the "Warsaw System", to which was attached a "Text of Convenience" of the Warsaw Convention as amended at the Hague, 1955, at Guatemala City, 1971, by the Additional Protocol No. 3 of Montreal, 1975, and by Protocol No. 4 of Montreal, 1975. The current General Work Programme of ICAO's Legal Committee, as approved by the Council on 18 November 1992, gives priority no. 2 to the item "Action to expedite ratification of Montreal Protocols Nos. 3 and 4 of the Warsaw System" and priority no. 3 to the item "Study of the instruments of the Warsaw System".

C. Transport overland and related issues

1. OTIF: Convention Concerning International Transport by Rail (COTIF)

86. The Revision Committee set up by OTIF to review the COTIF decided, at its first and second sessions 14 to 21.12.1989 and 28 to 31.5.1990 respectively), to amend the COTIF. The amendments decided by the Revision Committee at its first session entered into force on 1 January 1991, and those decided at its second session entered into force on 1 June 1991. The 1990 Protocol to amend the COTIF has been ratified, accepted or approved by ten States. The Protocol will come into force only if it has been ratified, accepted or approved by more than two- thirds of the thirty-four Member States.

2. OTIF: Regulations concerning the International Carriage of Dangerous Goods by Rail (RID)

87. The RID is under a constant revision process. Following the adoption of numerous amendments decided by the Committee of Experts on the Carriage of Dangerous Goods at its 28th session (2 to 12.4.1991), a consolidated version of RID has been published with effect as of 1 January 1993.

3. CIT: electronic consignment note

88. CIT continued its work for the replacement of the international railway consignment note through an electronic consignment note (DOCIMEL project). The project will be implemented in stages, with the first application expected to take place in 1995. As a first step, CIT prepared draft uniform tariffs regulations that will be reviewed in the near future. CIT prepared also a model uniform transport document for use by the railway systems applying the COTIF (for information on EDI-related topics see paras. 107-110 below).

4. IRU: model contract between car transport companies and hotel keepers

89. The International Road Transport Union (IRU), in cooperation with the International Association of Hotelowners (AIH), is preparing a model contract

containing general conditions on accommodation and code of driving matters, harmonizing the existing relevant practices.

5. IRU: electronic transport contract

90. A comparative study has been prepared in order to consider the possibilities and the problems arising with regard to the conclusion of a transport contract by electronic means of communication. In this respect, IRU is developing a draft communication agreement, in cooperation with FIATA and ICC.

6. UNIDROIT: civil liability for damage caused during carriage of dangerous goods by road, rail and inland navigation vessels

91. The Convention on Civil Liability for Damage Caused During the Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels was adopted in Geneva in 1989 under the auspices of the ECE. By March 1993 no State had ratified the Convention.

X. INTERNATIONAL COMMERCIAL ARBITRATION

A. AALCC: regional arbitration centres

92. The AALCC regional arbitration centres are involved in dissemination of information relating to international commercial arbitration (see para. 120 below).

B. ICC: international arbitration

93. The current priorities of the ICC Commission on International Arbitration are: examination of issues relating to multi-party arbitration, examination of Model ICC Arbitration Clause and jurisprudence related to arbitration clauses, revision of ICC's Rules for Technical Expertise and preparation of a report on how to optimize the use of Terms of Reference. The Commission has set up working parties for each of those priority topics. Further to the decision of its Working Party on Multi-party arbitration, ICC published "Multi-party Arbitration" (ICC Publication No. 480). It contains the views of specialists in international arbitration on issues such as drafting of arbitral agreements, appointment of arbitral tribunal, organization of arbitral proceedings and consolidation in case where there are multiple claimants or defendants. ICC also published a book on "Taking of Evidence in International Arbitral Proceedings" (ICC Publication No. 440/8), which describes in detail the different national procedural rules in arbitration which can apply under common as well as civil law systems. It also suggests solutions as to how these systems can be reconciled when,e.g., parties to a dispute come from countries which have different systems for the taking of evidence. Finally, ICC plans to publish soon a book on arbitration and competition law.

C. FIATA/IRU: arbitration rules

94. FIATA elaborated jointly with the IRU arbitration rules according to article 33 of the CMR Convention.

D. ICCA: publications and congresses

95. The International Council for Arbitration (ICCA) continued to publish the Yearbook: Commercial Arbitration. The Yearbook provides comprehensive and

up-to-date world-wide information on commercial arbitration. The Yearbook includes national reports on arbitration law and practice, court decisions on the application of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, abstracts of arbitral awards from arbitral institutions and ad hoc arbitrations, and articles on arbitration rules and practice. The Yearbook entered its 17th year in 1992. The last national report was published in Yearbook XIV - 1988. The national reports are now presented exclusively in ICCA's International Handbook on Commercial Arbitration, a loose leaf series of arbitration statutes and national reports. By the end of 1992, 13 supplements have been published (for training and assistance activities see para. 126 below).

E. ILA: transnational rules of law

96. The 64th Conference of the International Law Association, held in Australia in August 1990, reviewed the preliminary reports of the rapporteurs of the Committee on International Commercial Arbitration and invited the Committee to identify possible areas in the field of international commercial arbitration in which the application of rules of transnational nature may be of significance, to undertake a study in those areas and report on its work to the 65th Conference of the Association.

X. PRIVATE INTERNATIONAL LAW

A. Hague Conference: law applicable to negotiable instruments

97. At the sixteenth session of the Conference, the Permanent Bureau submitted a report (Preliminary Document No. 8) identifying the problems arising with regard to the revision of the Geneva Conventions of 1930 and 1931 and the specific conflict of laws issues that the United Nations Convention on International Bills of Exchange and International Promissory Notes might raise. The Special Commission, which met in June 1992 in order to examine the status of the work in progress and to prepare the decisions that are to be taken at the Seventeenth Session in May 1993, agreed that the topic was not of such importance as to convene an Extraordinary Session to deal with it. However, the Commission, in view of the imperfections of the Geneva Conventions and the possibility of renewed interest on the part of the States in the UNCITRAL Convention, decided to maintain the topic on the agenda for the Conference's work, but without any priority.

B. Hague Conference: contract practices studies

98. The Hague Conference has been working for a number of years on several topics in the area of contract practices. The Special Commission which met in June 1992 recommended that the Seventeenth Session strike from UNIDROIT's agenda the topic of the law applicable to licensing agreements and transfer of technology, because of continuing doubts about the viability of this topic. The Commission recommended to the Seventeenth Session that the topic of the law applicable to unfair competition be retained because of its inherent and continuing interest, but without priority, as there was doubt as to whether there was a pressing need for a convention, especially in view of the growing trend in case law and legislation towards uniformity of conflicts treatment.

C. Hague Conference: law applicable to contractual obligations

99. The Commission considered a report (Preliminary Document No. 7) prepared by the Permanent Bureau and recommended that this topic be stricken from the agenda for future work.

D. Hague Conference: law applicable to multimodal transport

100. It was realized during the meeting of the Special Commission that the work that UNCTAD and ICC have undertaken on this topic has minimized its interest from a conflict of laws view. The Special Commission, therefore, recommended that work on this topic be discontinued.

E. Hague Conference: EDI

101. The Permanent Bureau prepared a report (Preliminary Document No. 3) dealing with EDI. The Commission recommended that the topic be retained on the agenda for future work and that the Permanent Bureau be charged with continuing the study of the EDI-related problems, remaining in contact with other organizations working on this topic (for information on EDI-related work see paras. 108-111 below).

F. Hague Conference: credit transfers

102. The Permanent Bureau prepared and submitted to the Special Commission a report analyzing the conflict of laws problems arising in connection with credit transfers. A questionnaire was circulated to banks and international payment systems and it is expected that the Conference will consider at its Seventeenth Session the question whether a convention on the law applicable to credit transfers should be prepared.

H. Hague Conference: conventions on civil procedure and on international judicial and administrative cooperation

103. A number of conventions are discussed under this heading, such as the Conventions on Service of Documents Abroad and on Taking of Evidence Abroad. In particular, attention was drawn to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters and the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. A Special Commission meeting was held to study the operation of these Conventions and a report was issued. The second edition of the Practical Handbook on the operation of the Convention on Service of Documents Abroad was issued in 1992.

I. Hague Conference: new topics

104. In view of the UNCITRAL work on bank guarantees and stand-by letters of credit the Permanent Bureau prepared a report dealing with the conflict of laws problems arising with regard to bank guarantees (Preliminary Document No. 2). The Permanent Bureau submitted also a report on the law applicable to civil liability for environmental damage (Preliminary Document No 9). The Special Commission decided to recommend to the Seventeenth Session that both topics be included in the agenda for future work, the latter with high priority. The attention of the Special Commission was also drawn to the possible drafting of a convention on recognition and enforcement of decisions in civil and commercial matters. The Special Commission decided that a working group would be set up, which would meet before the Seventeenth Session and submit its conclusions about the possibility and feasibility of drafting a convention on this topic to the Seventeenth Session. The working group met in November 1992 and unanimously concluded that negotiating through the Hague Conference a general convention on jurisdiction and enforcement of judgements was both desirable and feasible.

XI. TRADE FACILITATION

A. Administrative procedures relating to goods and documents

1. GATT: pre-shipment inspection

105. At GATT in the context of the Uruguay Round, agreement was reached, on an ad referendum basis, at the Brussels Ministerial Meeting in December 1990, on an Agreement on Pre-shipment Inspection. That text forms part of the overall package in the Draft Final Act of the Uruguay Round Negotiations, a package that will be finally adopted once agreement has been reached in all areas of negotiations.

2. UNCTAD: pre-shipment inspection

106. UNCTAD prepared a comprehensive paper on pre-shipment inspection (PSI) for the ECE Working Party on Facilitation of International Trade Procedures (TRADE/WP.4/R.821), including comments on the agreement on PSI reached in the Uruguay Round Negotiations.

B. Electronic Data Interchange

1. UNCITRAL

107. At its twenty-fourth session in 1991 the Commission was agreed that the matter of EDI needed detailed consideration by a working group. Pursuant to that decision the Working Group on International Payments devoted its twenty-fourth session to identifying and discussing the legal issues arising from the increased use of EDI (A/CN.9/360). At its twenty-fifth session the Commission considered the report of the Working Group and endorsed the recommendations contained therein, reaffirmed the need for active cooperation between all international organizations active in the field and entrusted the preparation of legal rules on EDI to the Working Group on International Payments, which it renamed the Working Group on Electronic Data Interchange. The Working Group at its twenty-fifth session held from 4 to 15 January 1993 considered the issues discussed in a note prepared by the Secretariat (A/CN/9/WG.IV/WP.55) and requested the Secretariat to prepare, on the basis of the deliberations and conclusions, a first draft set of articles, with possible variants, on the issues discussed.

2. ICC

108. ICC has established a Working Party on EDI with a view to developing legal support for open EDI, that is electronic communications conducted without a written interchange agreement. It has also circulated to EDI legal experts around the world a number of papers dealing with EDI-related legal problems, along with a questionnaire, in order to determine whether sufficient input could be anticipated to bring the ICC EDI project to fruition. ICC published Interbank Transfer Techniques (ICC Publication No. 497). This publication presents the EDI progress to date, an analysis of the industrial community's financial EDI requirements and an assessment of the legal problems related with EDI, together with the impact of various EFT systems and regulations on capital adequacy and money laundering.

3. CCC

109. The Customs Co-operation Council has set up a Subcommittee on EDI matters. The Subcommittee has developed and approved customs-related EDI

messages. It has also finalized a new guideline on the legal aspects of EDI. The Secretariat has also published in 1991 a booklet entitled "An introduction to EDI in Customs". Also, the CCC/UPU Contact Committee examined, at its 15th meeting in October 1990, inter alia, the topic of harmonization of EDI transmission rules.

4. ECE

110. The Working Party on Trade Facilitation has set up a legal ad hoc working group which has issued several recommendations. A special work programme has been agreed upon which identifies legal problems in the field of trade facilitation and outlines projects in various sectors. These include legal aspects of electronic data interchange, legal aspects of trade documents, national legal and commercial barriers to trade, electronic authentication (defining electronic messages and their "signature") and coordination with other bodies. High priority is given to the development of a standard "interchange agreement" to be used by trading partners who wish to utilize EDI, the development of a questionnaire for analyzing national barriers which may exist with respect to the use of EDI, the solution of the problem of authentication of messages transmitted by EDI and the coordination of the activities of the Working Party on Facilitation of International Trade Procedures (WP.4) with other international organizations (for information on the CIT electronic consignment work and the IRU electronic transport contract see paras. 88 and 90 above respectively).

XII. OTHER TOPICS OF INTERNATIONAL TRADE LAW

A. CTC: Draft Code of Conduct on Transnational Corporations

111. CTC continued its work on the draft Code of Conduct on Transnational Corporations. While work has progressed, consultations have not been completed between interested delegations in order to reach consensus on a number of outstanding issues. The Code of Conduct represents a major endeavor to establish a balanced, comprehensive and multilateral framework that spells out the ground rules for relations between governments and transnational corporations. CTC publications and studies have continued to give major focus to the role and impact of transnational corporations (TNCs) on national and regional investment and in specific sectors. In detailed analyses, examination is made of legal, economic and social factors impacting on TNCs in host countries. Relevant legal issues are observed and analyzed, as well as their trends and implementation. The harmonization/nationalization of national and regional laws and regulations are monitored by CTC, and are coordinated on a global basis.

B. UNCTAD: restrictive business practices

112. The Intergovernmental Group of Experts on Restrictive Business Practices held its ninth and tenth sessions from 23 to 27 April 1990 and 21 to 25 October 1991. The ninth session was devoted to preparations for the second United Nations Conference to review all aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. During that session, it was recommended that a third Review Conference be convened in 1995. Pursuant to General Assembly resolution 41/167, the Second United Nations Conference to Review all Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices was convened from 26 November to 7 December 1990. The Conference adopted a resolution entitled "Strengthening the implementation of the Set" (TD/RPB/CONF.3/9) which, inter alia, calls upon

States to implement fully all provisions of the Set in order to ensure its effective application by adopting and effectively enforcing national restrictive business practices legislation and calling upon them to adopt, improve and effectively enforce appropriate legislation and to implement judicial and administrative procedures. During its tenth session, the Intergovernmental Group of Experts reviewed the operation and implementation of the Set of Principles and Rules on Restrictive Business Practices.

C. UNIDROIT: hotel keepers contract

113. The Governing Council at its 70th session decided that work on this item should not be further pursued in view of the limited support for it.

D. AALCC: Data Collection Unit

114. During the Nairobi Session of the AALCC in Eebruary 1989 the establishment of a Centre for Research and Development for the harmonization of international trade law in the Afro-Asian region was proposed. Studies were prepared and submitted to the Beijing Session in March 1990 and to the Cairo Session in 1991. The latter study justified the establishment of the proposed Centre but, in view of the high cost involved, the establishment of the Centre was envisaged as a long term objective. As a first step towards this long term objective the AALCC decided at its Islamabad Session in 1992 to set up a computerized Data Collection Unit as an integral part of the Secretariat for an initial period of two years. The main function of the Unit is to collect information on the laws and regulations of Member States with the final objective of attaining a possible harmonization of their legal regimes in the economic field. A number of Governments were approached and some have already provided information on their legal systems.

E. Cartagena Agreement: free trade and tariffs

115. The Board of the Cartagena Agreement has since 1990 issued a series of decisions dealing with the integration of trade law in the region. Those decisions are mandatory for the Member States and they aim at consolidating the common rules to be applied in the region on matters such as free trade, tariffs and incentives for exports.

F. ILA: securities regulation and other matters

116. The 64th Conference of the International Law Association, held in Australia in August 1990, reviewed the Interim Report of the Committee on International Securities Regulation on the scope of its work and the relevant work of the European Communities and the Council of Europe. It also invited the Committee to report on its work to the 65th Conference of the Association. The Committee on International Trade Law, recently established, plans to study and report on selected legal issues arising from the efforts to establish an effective multilateral trading system, in particular through the Uruguay Round of the GATT, such as institutional reform and dispute settlement, trade in services and trade related intellectual property rights.

G. UNIDROIT: Uniform Law Review

117. Four volumes of the Review were published in 1990, the second volume for 1987, the two volumes for 1988 and the first volume for 1989. The second volume of the 1989 Review and the first issue of the 1990 Review were published in December 1991 and January 1992 respectively. In January 1993 the first volume of the 1991 Review was published.

H. IBRD

1. Multilateral Investment Guarantee Agency (MIGA)

118. MIGA has concluded legal protection agreements with six countries that will make it easier for MIGA to issue investment guarantees.

2. International Centre for Settlement of Investment Disputes (ICSID)

119. The International Centre for the Settlement of Investment Disputes (ICSID) is an international organization established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, which was opened for signature in 1965 and entered into force the following year. ICSID seeks to encourage greater flows of international investment by providing facilities for the conciliation and arbitration of disputes between governments and foreign investors. To further its investment-promotion activities, ICSID also carries out a range of research and publication activities in the field of foreign-investment law. ICSID's foreign investment law publications include a semi-annual law journal, "ICSID Review-Foreign Investment Journal" and the multi-volume collection Investment Laws of the World and Investment Treaties. Two issues of the law journal and three releases of the investment laws and treaties collections are usually published each year.

XIII. TRAINING AND ASSISTANCE

A. AALCC

120. The Kuala Lumpur Centre organized, in January 1992, a two-day workshop for the training of potential arbitrators from the Asia-Pacific region as part of an ongoing arbitration development programme. The Cairo Centre hosted or co-sponsored the following Conferences: (i) The Congress of International Federation of Commercial Arbitration Institutions held on 20 and 21 February 1992; (ii) the Cairo-Alexandria Arbitration Conference held from 11 to 15 October 1992; the first part held in Cairo was devoted to the new Egyptian Draft Law on Arbitration which is modelled on the UNCITRAL Model Law; the second part was held in Alexandria to inaugurate the opening of a new branch of the Cairo Centre to handle maritime arbitration cases; and (iii) a Seminar on resolving disputes in international construction contracts through ADR techniques, held in Geneva on 12 and 13 November 1992.

B. CCC

121. The Training Unit of the CCC Secretariat has organized its second EDI Seminar in October 1990. The seminar was aimed at the more technical issues of EDI implementation. The Training Unit also has a fellowship program, which was recently expanded to include nationals of countries converting to free market economies.

C. ESCAP

122. ESCAP has an ongoing training and assistance project funded by the Government of the Netherlands. The project aims at extending advisory services to interested countries, from the developing ESCAP region, with a view to devise and implement trade and customs facilitation measures; it also aims at training national officials in training facilitation methodology and acquainting them with the use of EDI in trade. In January-February 1990, ESCAP organized in Manila the Second Meeting of National Trade Facilitation

Bodies. In December 1990, ESCAP organized in Singapore a Workshop on Computerization and Electronic Data Interchange in Trade and Customs. In 1991 and 1992, a series of national seminars and workshops on trade facilitation were held in Pakistan, Bhutan, Myanmar, Bangladesh and Mongolia. In 1993, a series of similar seminars are being organized for Lao, Maldives and Vietnam. Advisory services on trade facilitation were made available to India in 1991 and to Mongolia in 1992.

D. IBRD

123. In the context of its promotional and advisory services programme the Multilateral Investment Guarantee Agency (MIGA) of the World Bank has worked with a number of countries as they have liberalized their laws applying to foreign investments. Several developing countries have enacted new statutes that provide for international arbitration to settle investment disputes and many have entered into bilateral treaties for the protection and promotion of foreign investments. In addition, twenty-four advisory projects were completed by the Foreign Investment Advisory Service (FIAS). FIAS worked in thirty-two countries during 1992, of which approximately one third were in Africa, one third in Asia and one third in the rest of the world.

E. ICAO

124. A workshop of 15 States was held in Montreal in February/March 1991 with the participation of IATA and the ICAO Secretariat, during a Conference on International Air Law, to assist the expediting of the ratification of Protocols Nos. 3 and 4. Another workshop of 14 States was held in Montreal in May 1992, during the 28th Session of the Legal Committee, with the same objective. In addition, a regional seminar on air law was held in Curaóao in November 1992, during which the subject of the "Warsaw System" was extensively examined.

F. ICC

125. In 1990, ICC established an Institute which has already conducted nine 5-day seminars (260 participants from over 40 countries) directed at nationals of countries whose economies are in development or transition to the market economy system. European experts in the fields of international contract negotiation and international commercial arbitration use the case study method to teach international techniques and methods. In the context of its Ten Years Programme the ICC Institute plans to expand this programme with the assistance of UNDP and the EEC/PHARE.

G. ICCA

126. In 1991, ICCA held in Stockholm (28 to 31 May 1990) its Xth International Congress. The proceedings were published as volume 5 of the ICCA Congress Series. The subjects of this Congress were "Preventing delay or disruption of arbitration", and "Effective proceedings in construction cases". An ICCA Conference was held in Bahrain (14 to 16 February 1993), the subject of which was "International arbitration in a changing world".

H. OTIF

127. OTIF organized in Berne from 18 to 29 November 1991 a two-week training programme on International Railway Transport Law. Participants from 15 Member States attended the meeting and underwent successfully the final examination. Another one-week training course was organized in Ankara in June 1992. This course was specially designated for Turkish railways specialists.

I. SIECA

128. The Secretariat of SIECA organized a number of seminars on Harmonized Systems and Tariff and Customs Instruments and on Rules of Origin, Commercial Restrictive Practices and other issues of the GATT Uruguay Round. It has also published a number of papers on those issues.

J. UNCITRAL

129. Since the statement of the Commission at its twentieth session (1987) that "training and assistance was an important activity of the Commission and should be given a higher priority than it had in the past" (A/42/17, para. 335), the Secretariat has conducted a more extensive programme of training and assistance than had been previously carried out.

130. In 1990, two seminars on international trade law were held; the first, in Conakry, Guinea, from 27 to 29 March 1990, was attended by 120 participants; and the second, in Moscow, from 17 to 21 April 1990, covered training of 21 participants from 19 different developing countries. A series of seminars on the Hamburg Rules were also held in five Latin American countries in cooperation with the Comision Centroamericana de Transporte Maritimo (COCATRAM), from 3 to 13 September 1990. In 1991 three seminars on the legal texts that emanated from UNCITRAL were held; the first, in Douala, Cameroon, from 14 to 18 January 1991, was attended by 50 participants from 17 francophone countries of Northern, Western and Equatorial Africa; the second, in Quito, Ecuador, from 19 to 21 February 1991, was jointly organized by the Federación Subregional Andina de Usuarios del Transporte Internacional de Cargo (FECUTI) and the Acuerdo de Cartagena; and the third, in Suva, Fiji, from 21 to 25 October 1991, organized in cooperation with the South Pacific Forum. A Symposium on international trade law was also held during the second week of the twenty-fourth session of the Commission, from 17 to 21 June 1991. Lectures were given by delegates to the Commission session and by UNCITRAL staff. Funds from the UNCITRAL Symposia Trust Fund were made available for the travel and stay in Vienna of 30 participants from developing countries.

131. In 1992, four seminars on legal texts that emanated from the Commission were held; the first, in Mexico City, from 20 to 21 February 1992, was organized in cooperation with the Mexican Ministry of External Relations and was attended by 80 ministry officials, practitioners and teachers of law; national seminars were held in Indonesia, Singapore and Thailand during November 1992. A Congress on Uniform Commercial Law in the 21st Century was held in New York from 18 to 22 May 1992, in conjunction with the twenty-fifth session of the Commission, as a contribution to the United Nations Decade of International Law. Sixty five speakers from different regions of the world and legal systems presented to almost 600 participants from all over the world a panoramic view of development in major areas of international commercial law. In 1993, national seminars on UNCITRAL legal texts were held in Bangladesh, Pakistan, Sri Lanka, Ukraine, Poland and Slovenia. Further seminars are being planned for Eastern Europe, the Commonwealth of Independent States and Africa.

K. UNCTAD

132. UNCTAD has continued to promote the use of the Harmonized System (HS) commodity codes. Since February 1990, UNCTAD organized seminars in Singapore (September 1990), Brunei (March 1991) and Bhutan (October 1992) on national nomenclatures based on these commodity codes. Moreover, in collaboration with UN/ESCAP, UNCTAD has organized Trade Facilitation seminars on EDIFACT data

interchange standards in Bangladesh, Bhutan, Mongolia, Myanmar and Pakistan, pointing to the advantages of its adoption and recommending its use by all parties involved in international trade.

133. In addition, UNCTAD has been active in training and assistance in the area of transfer and development of technology. Within the context of a regional project, a workshop on "Technology Transfer and Management" for selected countries in Asia and the Pacific was organized in Manila, the Philippines, in December 1990. One of the main themes of the workshop dealt with channels and mechanisms for transfer of technology and negotiating technology transactions. Similarly, another workshop was organized for selected countries of the Asia-Pacific region in Kathmandu, Nepal, in December 1991. The Workshop, devoted to "Technology Transfer Arrangements", examined the questions related to technology transactions, negotiating technology agreements, and policy instruments conducive to the promotion of foreign investments and transfer of technology. In addition, part of the discussion in the Workshops were based on a series of country surveys of policies and arrangements in respect to the importation of technology in the Maldives (UNCTAD/ITP/TEC/23), Fiji (UNCTAD/ITP/TEC/30) and Myanmar (UNCTAD/ITP/TEC/33).

L. UNESCO

134. UNESCO has organized regional workshops and seminars in order to train administrators in the control of illicit traffic in cultural property. UNESCO'S principal office for Asia and the Pacific in Bangkok organized a five-day regional workshop from 24 to 28 February 1992, at Jomtien, Thailand, in cooperation with the SEAMEO Regional Centre for Archaeology and Fine Arts (SPAFA), Bangkok. UNESCO also organized a national workshop in Phnom Penh from 13 to 27 July 1992 on measures to protect cultural property against theft and illicit export. A national workshop on the illicit traffic of cultural property will be held in Hollokö, Hungary from 20 to 24 March 1993 for countries of Central and Eastern Europe on legislative and administrative steps to control illicit trade in cultural property.

135. In addition, a Seminar on counterfeiting was held in September 1992 at UNESCO Headquarters in Paris by the International Federation of Senior Police Officers in cooperation with UNESCO. An International Seminar whose main topic was the fight against piracy was held in Romania in October 1992. Finally, in November 1992, UNESCO held a Reflection meeting on the Challenges of Copyright on the eve of the 21st century. Well known authors of literary, scientific, musical and artistic works, performers, lawyers, economists and sociologists took part.

M. UNIDO

136. UNIDO held an Expert Group Meeting from 18 to 20 March 1992. In the context of six key sectors, the meeting reviewed a number of issues in connection with the measures being taken in the European Community to achieve the single market.

N. UNIDROIT

137. UNIDROIT held in Rome in September 1990 and 1991 an instruction course with the International Development Law Institute (IDLI), which provided to participants (lawyers from French speaking countries) information regarding the Institute and its activities, in particular its current work relating to the international protection of cultural property. In 1991 members of the Secretariat of UNIDROIT spoke at the Second International Seminar, held in Suceava under the patronage of UNCTAD/GATT on Romanian business and the

challenge of international competition, a member of the UNIDROIT Secretariat addressed the issue of "Modern methods of international commerce: franchising, leasing, factoring"; and at the Fourth Meeting of Law Officers of Small Commonwealth Jurisdictions organized by the Commonwealth Secretariat in Nicosia, the Secretary- General of UNIDROIT addressed the advantages offered by the unification process to such jurisdictions. In February 1992 the International Association of Young Lawyers (A.I.J.A.) organized a seminar on cross-border leasing, during which a member of the UNIDROIT Secretariat introduced the UNIDROIT Convention and gave information regarding its implementation.

138. In the context of its work programme for the triennial period 1993-1995 UNIDROIT plans to enlarge its legal assistance programme to encompass not only developing countries but also countries restructuring their economies. In particular, UNIDROIT plans to organize, most probably in 1994, a coordination meeting on legal assistance to developing countries. This meeting would allow stock to be taken of the existing situation and broad guidelines to be drawn up aimed at improved consultation and a rationalization of efforts in this field. UNIDROIT plans also to hold seminars in developing countries, participating in seminars jointly organized with other organizations. UNIDROIT has also announced a programme of three-month research scholarships for lawyers from developing countries and countries restructuring their economies. UNIDROIT plans also to hold during the second half of the triennium 1993-1995 a Fourth International Congress on Private Law. A subcommittee of the UNIDROIT Governing Council is expected to meet before the 72nd session to consider a Secretariat paper dealing with the content of the Congress, its timing and venue.

O. WIPO

139. In October 1991, WIPO and UNCED (United Nations Conference on Environment and Development) jointly organized a meeting of experts which discussed and clarified legal and technical aspects of intellectual property issues relating to the transfer of technology that had bearing on environmental protection, as part of the preparations for the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. In addition, WIPO and EPO jointly organized a symposium on patents in Budapest for the government and private sectors of Czechoslovakia, Hungary and Poland, as well as Member States of EPO. WIPO also organized a national seminar on intellectual property with the Government of Romania.

140. In 1992, WIPO organized a total of 95 courses, workshops and seminars at national, subregional, regional and global levels. They provided basic knowledge of industrial property or copyright, or specialized information in areas such as computerization of industrial property office administration, the use of computerized patent information data bases, legal and economic aspects of industrial property, the administration of the collection and distribution of copyright royalties and the promotion of technological inventiveness. In addition, 90 missions comprising WIPO officials and 88 outside consultants employed by WIPO were undertaken to some 40 developing countries. Those missions afforded advice, inter alia, to government authorities on the upgrading of administrative procedures, computerization, the provision of patent information services and the setting up of organizations for the collective administration of rights under copyright law. In 1993, the International Bureau of WIPO plans to continue giving special attention to the needs of Central and Eastern European countries, in particular through a special unit, the Central and Eastern Europe Section, which was set up at the International Bureau. There are also plans for

seminars and other meetings to be organized at the national and international levels on various aspects of intellectual property, including a seminar in Romania for Central and Eastern European countries on service inventions, and a meeting of those countries and potential donor countries at the headquarters of WIPO to discuss questions of common interest. Finally, the International Bureau contributed, in an advisory capacity to the legislative changes that took place or were being planned in Central and Eastern European countries in the intellectual property field.

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